BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Celia R. & Alberto Ceffalo	)
	Dist. 15, Map 41F, Group D, Control Map 41F,	) Carter County
	Parcel 18.00	)
	Residential Property	)
	Tax Year 2007	)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$27,500	$284,000	$311,500	$77,875

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 24, 2007 in Elizabethton, Tennessee. In attendance at the hearing were Mr. and Mrs. Ceffalo, the appellants, Gerald Holly, Carter County Assessor of Property, and staff appraiser Ronnie Taylor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence situated on a 100' x 115' lot located at 619 Hattie Drive in Elizabethton, Tennessee. Subject residence was constructed in 1892 and contains approximately 3,618 square feet of weighted area.

The taxpayers contended that subject property should be valued at $220,000. In support of this position, the taxpayers argued that the 2007 countywide reappraisal caused the appraised value of their home and the resulting taxes to increase excessively. In addition, the taxpayers maintained that the current appraisal of their property does not achieve equalization given the assessor's appraisals of other parcels in the immediate area. Moreover, the taxpayers asserted that subject property experiences a dimunition in value because of its physical condition and color (purple and pink). Finally, the taxpayers claimed that a lower appraisal is supported by bank appraisals ranging from $200,000 to $250,000.[1]

The assessor contended that subject property should be valued at $308,300. In support of this position, the assessor argued that the January 9, 2004 sale of the home located at 615 Hattie Avenue for $410,000 supports the current appraisal of subject property. The assessor also noted that the taxpayers had subject property listed for sale at $725,000 in 2005-2006.

[1] The most recent bank appraisal valued subject property at $250,000 as of April 10, 2003.

The assessor initially contended that subject property had been appraised consistently with other homes in the area. Various property record cards were introduced into evidence in support of this contention. Following the hearing, however, Mr. Holly reviewed the lot appraisals in the neighborhood and recommended subject lot be valued at $304 per front foot which represents the average in the area.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $308,300 as contended by the assessor of property.

Since the taxpayers are appealing from the determination of the Carter County Board of Equalization, the burden of proof is on the taxpayers. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .
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> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Similarly, the Commission has ruled that taxes are simply irrelevant to the issue of market value. See, e.g. *John C. & Patricia A. Hume* (Shelby Co., Tax Year 1991).

The administrative judge finds that the taxpayers' equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See

Appeals of Laurel Hills Apartments, et al. (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.[2] The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

> The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

The administrative judge finds that any loss in value attributable to the physical condition and color of subject home cannot be quantified absent additional evidence such as repair estimates. Moreover, the physical problems summarized in the taxpayers' exhibit (bouncing floors, cracks in the plaster, creaking stairs, leaking roof and downspout problems, lack of insulation and an attic with open eaves) do not appear structural in nature.

The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

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[2] See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

The administrative judge finds that the taxpayers introduced into evidence an appraisal which valued subject property at $250,000 as of April 10, 2003. The administrative judge finds that this appraisal lacks probative value for at least two reasons. First, since January 1, 2007 constitutes the relevant assessment date, an appraisal made as of April 10, 2003 must be considered remote in time. Second, the appraiser was not present to testify or undergo cross examination. See *TRW Koyo* (Monroe Co., Tax Years 1992-1994) wherein the Assessment Appeals Commission ruled in pertinent part as follows:

> The taxpayer's representative offered into evidence an appraisal of the subject property prepared by Hop Bailey Co. Because the person who prepared the appraisal was not present to testify and be subject to cross-examination, the appraisal was marked as an exhibit for identification purposes only. . . .
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> . . . The commission also finds that because the person who prepared the written appraisal was not present to testify and be subject to cross-examination, the written report cannot be considered for evidentiary purposes. . . .

Final Decision and Order at 2. The administrative judge finds that the other appraisal(s) referred to by the taxpayers lack probative value for the same reasons.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$24,300	$284,000	$308,300	$77,075

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 7th day of November, 2007.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Celia R. & Alberto Ceffalo
Gerald Holly, Assessor of Property